

EXECUTIVE OFFICE OF ELDER AFFAIRS

ASSISTED LIVING

APPLICATION FOR EXEMPTION TO SPECIAL CARE RESIDENCE STAFFING



Purpose

In accordance with 651 CMR 12.06(5)(c), a certified Assisted Living Residence (ALR) may request an exemption from the Special Care Residence (SCR) minimum staffing requirement set forth in 651 CMR 12.06(5)(b). Specifically, the EOEA Secretary may grant an exemption to a qualified ALR and allow one staff member and one Floater to be on duty during an overnight shift if it is determined that:

- The physical design of the SCR is conducive to the provision of sufficient care to all residents;
- Staff members possess the means to conduct immediate communication with each other;
- The exemption request is not based on a fluctuation in Residence occupancy; and
- The safety and welfare of Residents are not compromised.

Exemptions will only be considered appropriate in situations where the physical design and layout of the Residence can accommodate a modified staffing structure while still ensuring that there is sufficient staff to meet all Residents' needs. The Secretary may grant an exemption at her sole discretion and may, at any time, revoke such an exemption. Such decisions made by the Secretary are final and are not subject to appeal.

The SCR staffing requirement exemption is only available for overnight shifts, typically from 11:00 pm to 7:00 am.

Floater staff cannot be assigned any primary job responsibilities since they must be available at all times to supplement existing staff when needed. In addition, like other ALR staff, Floater staff must have adequate training, experience, and qualifications.

Regardless of exemption status, ALRs are required to provide sufficient staff in accordance with 651 CMR 12.06(4)(b) and 651 CMR 12.06(5)(a). All staff must be qualified by training and experience and must be awake and on duty at all times to meet the scheduled and reasonably foreseeable unscheduled needs of all SCR Residents. This requirement applies to all ALRs including those that are granted an exemption.

Term of Exemption

Once granted, an exemption to the SCR staffing requirements in 651 CMR 12.06(5)(b) is valid for the remaining term of the ALR's certification. During the biennial recertification process, interested ALRs will have the opportunity to resubmit an application for SCR staffing exemption.

If any information collected as part of the application changes during the term of the ALR certification, the ALR is required to report that information to EOEA. EOEA may revoke the exemption status or require the ALR to submit a new application if it determines that this change substantially alters the SCR operations.

EOEA may also revoke an ALR exemption to SCR staffing requirements if there are subsequent critical incidences or compliance findings related to this regulation that indicate that the ALR is not able to meet the requirements of 651 CMR 12.06(5) with modified overnight staffing model.

Application Process

Any ALR interested in applying for an exemption to SCR staffing requirements should complete the attached application by **March 1, 2017**. EOEa will review all complete applications submitted by the deadline and respond in writing. Completed applications should be submitted to the EOEa Assisted Living Certification Unit at EOEa.

As part of the application review, EOEa has the discretion to review all available records related to past performance, including EOEa compliance reviews and any information received from the public. EOEa may conduct an onsite review to gather additional information related to the application.

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General Information

1. **Date of Application** _____
2. **Name of Assisted Living Residence** _____
3. **Address of Assisted Living Residence** _____
4. **Traditional ALR:**
 - a. _____ total # units _____ total maximum occupancy
 - b. _____ total # single occupancy units _____ maximum single occupancy
 - c. _____ total # double occupancy units _____ maximum double occupancy
 - d. _____ not applicable
5. **Special Care ALR:**
 - a. _____ total # units _____ total maximum occupancy
 - b. _____ total # single occupancy units _____ maximum single occupancy
 - c. _____ total # double occupancy units _____ maximum double occupancy
6. **Total number of Special Care Residents that needed the following assistance during the overnight hours:**
 - a. On 6/30/16:
_____ 2-person assist _____ medication assistance _____ Any ADL care (including repositioning)
 - b. On 7/31/16
_____ 2-person assist _____ medication assistance _____ Any ADL care (including repositioning)
 - c. On 8/31/16
_____ 2-person assist _____ medication assistance _____ Any ADL care (including repositioning)
 - d. On 9/30/16
_____ 2-person assist _____ medication assistance _____ Any ADL care (including repositioning)
 - e. On 10/31/16
_____ 2-person assist _____ medication assistance _____ Any ADL care (including repositioning)

- f. On 11/30/16
____ 2-person assist ____ medication assistance ____ Any ADL care (including repositioning)
- g. On 12/31/16
____ 2-person assist ____ medication assistance ____ Any ADL care (including repositioning)
7. **Based on payroll records, the total number of overnight care staff that worked in the Special Care Residence on the following evenings:**
- a. ____ 6/30/16
 - b. ____ 7/31/16
 - c. ____ 8/31/16
 - d. ____ 9/30/16
 - e. ____ 10/31/16
 - f. ____ 11/30/16
 - g. ____ 12/31/16
8. **Person that can answer questions related to this application:**
- Name _____
- Title _____
- Phone _____
- Email _____

Physical Space

9. **Attach a detailed easy-to-read floor plan along with photos of the Special Care Residence. The floor plan should indicate all the dimensions of the residence and include a legend indicating the applicable scale. The plan should also clearly indicate:**
- a. **Location of Traditional units and the capacity for each unit**
 - b. **Location of Special Care units and the capacity for each unit**
 - c. **Location of all overnight staff assigned to work in Traditional units**
 - d. **Location of all overnight staff assigned to work in Special Care units**
 - e. **Location of common areas, nursing stations**
 - f. **Location of stairs and/or elevators**
 - g. **All points of egress**
 - h. **Proposed location of Floater(s) if granted an exemption**

Staff Communication Protocols

- 10. Describe the systems currently in place and utilized by staff to communicate on a regular and emergency basis. Indicate the type of systems, if the systems are hard wired, handheld, and/or hands free. Describe how these systems might be modified if the exemption to the staffing requirements is granted.**

Staffing

- 11. Describe the process utilized by the ALR to assess the staffing level needed on an ongoing basis including the methods and measures that the ALR uses to ensure that the staffing level is sufficient at all times (e.g., how residents are assessed for changes in condition, level of acuity, functional status, etc.), and specifically on each 11 pm-7 am shift.**

12. If an exemption were granted, describe the operational plan that would be utilized if there were an emergency in the ALR and the Floater was busy?